

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 8 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "about", used before the claimed percentages in claim 8 and 16 is a relative term which renders the claim indefinite. The term is not defined by the claims, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 9-16 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 9-16 are directed towards a system comprised of two endpoints. Paragraph 82 of the applicant's specification states that the present invention may be implemented in software. Claims 9-16 are broad enough to cover software per se. Claims to software per se do not fit into any of the statutory categories of invention.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-6 and 9-14 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S.

Patent Number 7,366,183 to Sylvain.

As to claim 1, Sylvain teaches a method of initializing a video system, said video system including at least a first and a second endpoint connected via a communications network; said method including: determining first endpoint parameters of said first endpoint (col. 5, lines 6-22); sending said first endpoint parameters along with an invite request message to said second endpoint (col. 5, lines 6-22); receiving said invite request message and first endpoint parameters at said second endpoint (col. 5, lines 6-22); determining second endpoint parameters of said second endpoint (col. 5, lines 6-22); sending an acknowledgement message along with said second parameters to said first endpoint (col. 5, lines 6-22); and initializing said first and second endpoints using the parameters of the other endpoint to select appropriate parameter values by referring to predefined common look-up tables and predefined rules at said first and second endpoints (col. 9, line 60-col. 10, line 28).

As to claims 2 and 3, method as in claim 1 wherein said communications network is a local area network, wide area network (WAN), satellite network, wireless communications network, value added network (VAN), telephone network (POTS), private leased line network, the Internet or any combination of the foregoing (col. 1, line 6-8).

As to claim 4, Sylvain teaches the method as in claim 1 wherein each of said endpoints is a video enabled system (col. 7, line 57-col. 8, line 12).

As to claim 5, Sylvain teaches the method as in claim 4 wherein each of said endpoints is a computer system (Fig. 1).

As to claim 6, Sylvain teaches the method as in claim 1 wherein said first and second endpoint parameters include performance characteristics parameters (col. 5, lines 6-22).

As to claims 9-14, they are rejected for the same reasoning as claims 1-6.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S.

Patent Number 7,366,183 to Sylvain in view of U.S. Patent Number 6,934,756 to Maes.

As to claims 7 and 15, Sylvain teaches the inventions of claims 6 and 14 however Sylvain does not specifically describe all of the claimed parameters.

Maes teaches the claimed parameters in the same type of message taught by Sylvain (col. 70, lines 40-45).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Sylvain regarding establishing parameters with the teachings of Maes regarding the specifically claimed parameters because Sylvain discusses parameters in a broad manner and Maes shows types of parameters that could be applied as capabilities in Sylvain.

#### ***Allowable Subject Matter***

Claims 8 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable over the prior art if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the specific initialization process claimed in claims 8 and 16 was not found to be anticipated or made obvious by the prior art of record.

As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DOUGLAS B. BLAIR whose telephone number is (571)272-3893. The examiner can normally be reached on 9:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on (571) 272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Douglas B Blair/  
Primary Examiner, Art Unit 2442